

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

KPH Healthcare Services, Inc., a/k/a Kinney Drugs, Inc., et al.,	:	No. 1:20-cv-08754
v.	:	
Abbvie Inc., et al.	:	
	:	
KPH Healthcare Services, Inc., a/k/a Kinney Drugs, Inc., et al.,	:	No. 1:20-cv-08756
v.	:	
Hetero USA Inc., et al.	:	
	:	
J M Smith Corporation d/b/a Smith Drug Company, et al.,	:	No. 20-cv-5735 (LJL)
v.	:	
Forest Laboratories LLC, et al.	:	
	:	
J M Smith Corporation d/b/a Smith Drug Company, et al.	:	No. 20-cv-7110 (LJL)
v.	:	
Watson Pharma. Inc., et al.,	:	
	:	

[PROPOSED] ORDER

Before the Court are applications from plaintiffs' counsel in the above-captioned matters seeking appointment as Interim Co-Lead Counsel to represent the interests of the proposed Direct Purchaser class, pursuant to Federal Rule of Civil Procedure 23(g).

The Court, having considered all motions and memoranda; and having considered the factors provided in Rule 23(g) of the Federal Rules of Civil Procedure, and finding that Dianne M. Nast and Michael L. Roberts satisfy all the requirements of Rule 23(g) in that: (i) the investigation and identification of potential claims in the action have been undertaken and will likely be ongoing; (ii) the requisite experience in handling class actions, other complex litigation, and the types of claims asserted in the action requirement is satisfied; (iii) knowledge of the applicable law is demonstrated by participation in this and similar cases; and (iv) resources necessary to represent the class and prosecute this case have been committed; appoints Dianne M. Nast and Michael L. Roberts as Interim Co-Lead Counsel for the Direct-Purchaser class pursuant to Fed. R. Civ. P. 23(g).

For the foregoing reasons, it is hereby ORDERED that the motion of Plaintiff KPH Healthcare Services, Inc., a/k/a Kinney Drugs, Inc. for the appointment of Dianne M. Nast and Michael L. Roberts as Interim Co-Lead Counsel for the direct purchaser class is GRANTED. NastLaw LLC and Roberts Law Firm will be responsible for the overall conduct of the litigation on behalf of the putative class of Direct-Purchaser class, including providing supervision of all class Plaintiffs' counsel in this litigation.

As Interim Co-Lead Class Counsel for the Direct-Purchaser class, NastLaw and Roberts Law Firm have the authority to:

- a. Promote the efficient conduct of this litigation and avoid unnecessary duplication and unproductive efforts by making and supervising all work assignments;
- b. Prepare and file the Consolidated Class Complaint on behalf of the putative class, and any subsequent pleadings;
- c. Make, brief, and argue motions;

- d. Conduct all pretrial, trial, and post-trial proceedings on behalf of the putative class and act as a spokesperson for the putative class;
- e. Conduct and coordinate discovery on behalf of the putative class consistent with the Federal Rules of Civil Procedure, including preparation (or responses to) written discovery requests and examination (or defense) of witnesses in depositions;
- f. Monitor activities of the plaintiffs' counsel to whom they delegate, when delegating with the permission of the Court, and implement procedures to ensure that schedules are met and unnecessary expenditures of time and funds are avoided by collecting from each firm regular time and expense reports;
- g. Negotiate with defense counsel with respect to settlement and other matters;
- h. Prepare any application for an award (or approval) of fees and reimbursement of expenses incurred by the putative class;
- i. Consult with and retain expert witnesses for the putative class;
- j. Negotiate with, retain, and manage relations with outside vendor(s) for the collection, processing, or review of documents and electronically stored information produced in discovery;
- k. Conduct or coordinate all negotiations with defense counsel regarding search and production protocols, manage the review of documents produced by defendants and third parties (and production of documents by the putative class plaintiffs), and implement advanced analytics for the efficient review of documents as appropriate;
- l. Coordinate and communicate as necessary with counsel for other parties in the litigation regarding any matters addressed in this Order in order to ensure efficient use of plaintiffs', defendants', and the Court's time;

- m. Ensure that all Plaintiffs' counsel and Plaintiffs are informed of the progress of this litigation as necessary; and
- n. Otherwise coordinate the work of Plaintiffs' counsel, coordinate with counsel for the Direct-Purchaser Plaintiff class, and perform such other duties as Interim Co-Lead Class Counsel deem necessary and appropriate based upon their judgment and consideration or as authorized by further Order of the Court.

It is further ORDERED that the motions by other counsel for appointment as interim class counsel for the putative Direct-Purchaser Plaintiff class are DENIED.

It is further ORDERED that Interim Co-Lead Class Counsel may not delegate responsibility or assign legal work to other law firms without the prior approval of the Court. No firm to which Interim Co-Lead Counsel delegates responsibility, when delegating with the approval of the Court, may further sub-delegate the work without the prior approval of interim co-lead counsel and the Court.

It is further ORDERED that a new case management and scheduling conference will be held on _____, 2020 at _____ a.m./p.m. with interim class counsel for the End-Payor Actions, interim class counsel for the Direct-Purchaser Actions, and all counsel for Defendants.

SO ORDERED.

Dated: _____, 2020

LEWIS J. LIMAN,
United States District Judge